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BEFORE THE FOREST PRACTICES APPEALS BOARD
STATE OF WASHINGTON

GEORGE F HEIDGERKEN,)	
)	
Appellant,)	NO. 94-18
)	
v.)	MOTION, STIPULATION
)	AND ORDER OF CONDITIONAL
DEPARTMENT OF NATURAL)	DISMISSAL
RESOURCES,)	
)	
Respondents.)	
_____)	

MOTION

The parties in the above-entitled appeal, appellant GEORGE F HEIDGERKEN, by and through his attorney, CRAIG A. RITCHIE, and respondent State of Washington Department of Natural Resources, by and through its attorneys CHRISTINE O. GREGOIRE, Attorney General, and JOHN E. JUSTICE, Assistant Attorney General, move the Forest Practices Appeals Board ("FPAB") for an order conditionally dismissing this action. This motion is based upon the stipulation contained herein.

STIPULATION

In consideration of full settlement of the above-entitled appeal, the parties agree as follows:

MOTION, STIPULATION &
ORDER OF CONDITIONAL
DISMISSAL - 1

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1 1. The Department of Natural issued a civil penalty of
2 \$10,000 and a Notice of Intent to Disapprove Future Forest
3 Practices Applications to George Heidgerken citing a failure to
4 perform reforestation of approximately 270 acres of land harvested
5 under a Class III forest practice application.

6 2. Both actions were appealed in a timely manner to the
7 Forest Practices Appeals Board on May 23, 1994.

8 3. The goal of the Department is to have the property
9 reforested to the minimum standards required by the Forest
10 Practices Regulations.

11 4. Therefore, George Heidgerken personally agrees to the
12 following:

13 a) George Heidgerken will be responsible to re-plant all
14 portions of the 270 acres, which have been segregated into 20
15 acre parcels, which do not currently meet the minimum
16 reforestation standards of the forest practices rules which
17 require 190 well-distributed, vigorous, undamaged seedlings
18 per acre of a commercial tree species.

19 b. The commercial tree species re-planted shall be either
20 Sitka Spruce or Western Hemlock. If it is determined that it
21 is a more economically beneficial use of the land to plant
22 Holly Trees, up to 100 acres of the total parcel may be used
23 for that purpose. The decision of whether it is more
24 economically beneficial lies with the landowner.

25 c. George Heidgerken will perform all necessary site-
26 preparation work to ensure that competing vegetation shall

MOTION, STIPULATION &
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DISMISSAL - 2

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1 not prohibit the establishment, survival and growth of the
2 seedlings. Preparation may include burning with proper
3 permits.

4 d. Planting shall be completed by December 30, 1995. If an
5 event occurs which is out of George Heidgerken's control,
6 such as an act of God, then the date for completion may be
7 re-negotiated.

8 5. George Heidgerken further agrees that he will be
9 responsible for reforesting this property regardless of any
10 unresolved ownership issues arising from the real estate contract
11 between himself and Bonnie Heintz and Alice Reid. Bonnie Heintz
12 and Alice Reid must approve of this agreement.

13 6. In consideration of George Heidgerken's promise to be
14 responsible for the reforestation of the property as described
15 above, the Department agrees to temporarily suspend both the Civil
16 Penalty and the Notice of Intent to Disapprove Future Forest
17 Practices Applications until December 31, 1995. If reforestation
18 to the standards describe in paragraph 4 is completed by that
19 date, then both actions will be cancelled.

20 7 If reforestation does not occur, and the failure is not
21 due to the occurrence of an event outside the control of George
22 Heidgerken, such as an act of God, then both the civil penalty and
23 the Notice of Intent to Disapprove Future Forest Practices
24 Applications will be immediately reinstituted.

25 8. If the civil penalty and the Notice of Intent to
26 Disapprove Future Forest Practices Applications are reinstituted

MOTION, STIPULATION &
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1 as provided in paragraph 7, then the FPAB appeal will resume and
2 be limited to the following issues:

3 a. Was there compliance with this agreement?; and

4 b. Is the civil penalty reasonable?; and

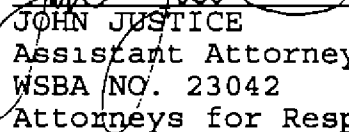
5 c. Is the Notice of Intent to Disapprove Future Forest
6 Practices Applications reasonable?

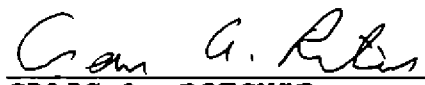
7 The ownership issue arising from the real estate contract
8 with Bonnie Heintz and Alice Reid will expressly not be an issue
9 in the appeal.

10 9. In consideration of the foregoing, the parties agree that
11 no issues of controversy remain and the appeal should be
12 conditionally dismissed.

13 DATED this 14th day of October, 1994.

14 CHRISTINE O. GREGOIRE
15 Attorney General

16 
17 JOHN JUSTICE
18 Assistant Attorney General
19 WSBA NO. 23042
20 Attorneys for Respondent
21 Dept. of Natural Resources

22 
23 CRAIG A. RITCHIE
24 Attorney at Law
25 WSBA No. 4818
26 Attorney for Appellant
George F. Heidgerken


GEORGE F. HEIDGERKEN

1 George Heidgerken appeared before me on the below date and
2 acknowledged that this is a free and voluntary act for the uses
and purposes set forth herein.

3 Subscribed and Sworn Before Me this 14th day of October, 1994

4 Craig A. Ritchie
5 Notary Public of the State of
6 Washington residing at Port Angeles
Commission expires 4-30-96
Craig A. Ritchie

7 Bonnie L. Heintz
8 BONNIE HEINTZ
9 Bonnie L. Heintz for Alice M. Reid
10 ALICE REID by POWER OF ATTORNEY
BONNIE HEINTZ

11 The above parties appeared before me on the below date and
12 acknowledged that this is a free and voluntary act for the uses
and purposes set forth herein.

13 Subscribed and Sworn Before Me this 20th day of October, 1994

14
15
16 AMY SHAFFNER
17 NOTARY PUBLIC
STATE OF WASHINGTON
My Commission Expires Sept 1 1996

18 [Signature]
19 Notary Public of the State of
20 Washington residing at
21 Commission expires
22 Craig A. Ritchie

23 ORDER

24 THIS MATTER, having come before the Forest Practices Appeals
25 Board and the Honorable William A Harrison, Administrative
26 Appeals Judge, based on the foregoing stipulation and motion to
conditionally dismiss, now therefore,


IT IS HEREBY ORDERED that there remain no issues in
controversy between the parties in the above-entitled appeal and
the appeal is therefore conditionally dismissed.

MOTION, STIPULATION &
ORDER OF CONDITIONAL
DISMISSAL - 5

1 DONE this 17th day of November 1994.

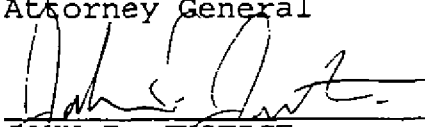
2
3 THE HONORABLE WILLIAM A. HARRISON

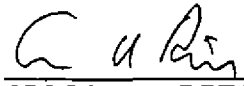
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6 BOARD MEMBERS

7 
8 MR. NORMAN L. WINN, Chair

9 
10 DR. MARTIN R. KARTZ, Member

11 
12 MR. ROBERT QUOIDEACH, Member

13 Presented by:
14 CHRISTINE O. GREGOIRE
15 Attorney General
16 
17 JOHN E. JUSTICE
18 Assistant Attorney General
19 WSBA No. 23042
20 Attorney for Respondent
21 Department of Natural resources

22 
23 CRAIG A. RITCHIE
24 Attorney at Law
25 WSBA No 4818
26 Attorney for Appellant
George F. Heidgerken

MOTION, STIPULATION &
ORDER OF CONDITIONAL
DISMISSAL - 6